

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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BORIS ABAYEV AND REGINA ABAYEV,

Plaintiffs,

**MEMORANDUM & ORDER**  
22-CV-386 (EK) (JRC)

-against-

AMERICAN AIRLINES, INC.,

Defendant.

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ERIC KOMITEE, United States District Judge:

At oral argument, the Court raised the issue of whether the Abayevs were seeking to hold American liable solely under a theory of *respondeat superior*. See generally *Bary v. Delta Airlines*, No. 02-CV-5205, 2009 WL 3260499, at \*7 n.7 (E.D.N.Y. Oct. 9, 2009) ("Liability under Title VI . . . cannot be imputed to institutions based on the actions of their employees."), *aff'd* 553 F. App'x 51 (2d Cir. 2014); *Goonewardena v. New York*, 475 F. Supp. 2d 310, 328 (S.D.N.Y. 2007).

District courts may grant summary judgment "on grounds not raised by a party" only "[a]fter giving notice and a reasonable time to respond." Fed. R. Civ. P. 56(f).

Accordingly, by August 8, the parties shall file supplemental letters, not to exceed five pages, addressing whether *respondeat superior* liability should lie here and, if not, whether the

Abayevs have adduced sufficient evidence to hold the corporate entity liable.

The parties may file additional material adduced in discovery that they believe is relevant. This may include "documents, electronically stored information, affidavits or declarations," or any other materials contemplated by Rule 56(c).

SO ORDERED.

/s/ Eric Komitee  
ERIC KOMITEE  
United States District Judge

Dated: July 31, 2025  
Brooklyn, New York